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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/408,091	09/29/1999	GORDON HOWARD EPSTEIN	GE1610	3584

7590

08/08/2002

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EXAMINER

KENNEDY, SHARON E

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 08/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/408,091

Applicant(s)  
Epstein et al.

Examiner  
Sharon Kennedy

Art Unit  
3763



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 24, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above, claim(s) 8, 12-14, and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 11, 15, 16, and 19 is/are rejected.
- 7) ☒ Claim(s) 6, 9, 10, and 18 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

#### ***Election/Restriction***

2. Regarding the withdrawal of non-elected claims 8, 12-14 and 17, applicant should note that these claims may be recombined after a generic claim is allowed. It is premature to assume to file a continuing application at this time.

#### ***Claim Rejections - 35 USC § 102***

3. Claims 1, 3, 4 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasson, US 4,935,006. Although Hasson does not disclose an adhesive applicator, the body of applicant's claims does not distinguish over the structure of Hasson.
4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mammolenti et al., US 4,601,697. It is agreed that Mammolenti has nothing to do with sealant applicators, however, note the distal tip of Mammolenti. The claims do not distinguish over this structure.
5. Claims 1, 2, 7 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Redl et al., US 4,631,055. Although the mixing does not occur at the distal end of the catheter, this feature is not claimed. The stabilizer member is anticipated by Redl connecting head 27. 28 and 29 can be considered part of the catheter. Regarding claim 19, the method steps do not define over the invention because the components are being mixed as they travel through catheter 31, and are still being mixed at the distal tip. In other words, if claim 19 required that the mixing

was adjacent at ONLY the distal end of the catheter and not at any other point, then Redl would be distinguished from claim 19.

***Claim Rejections - 35 USC § 103***

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redl, US 4,631,055. The claimed clearing system has few limitations and is more like a statement of function. The examiner submits that a moistened paper towel or the like, combined with the Redl device, would anticipate claim 5. It would be obvious to clean the head of Redl since the ordinary consumer typically wipes the head of an adhesive dispenser during use and before storage. For example, most consumers would clean the tip of their Elmer's glue bottle before reapplying the cap, or during application if the tip became too messy.

7. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasson, US 4,935,006. Regarding claim 11, it would be obvious to add graduated markings if necessary. Regarding claim 15, the cap is an obvious design choice and probably included on these suction and irrigation devices during sale.

***Allowable Subject Matter***

8. Claims 6, 9, 10 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has already uncovered the closest prior art. The

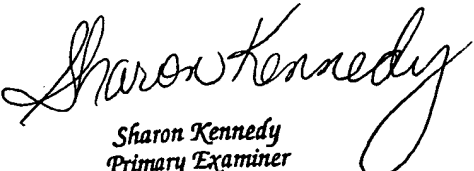
allowed claims recite the combination fluid sealant agent sources and the longitudinally movable catheters adequately..

***Response to Arguments***

Applicant's arguments filed May 24, 2002 have been fully considered but they are not persuasive. Regarding Hasson, '006, it is agreed that Hasson has nothing to do with applying sealant, however, applicant's claims do not define structurally over Hasson. The arguments with respect to claim 19 are <sup>not</sup> convincing.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is (703) 305-0154.

August 7, 2002

  
Sharon Kennedy  
Primary Examiner